

United States Senate
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Governmental Affairs
199 Russell Senate Office Building, Washington, D.C. 20510

Norm Coleman, Chairman
Carl Levin, Ranking Minority Member

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CURRENT INVESTIGATIONS

United Nations “Oil-for-Food” Program

The Subcommittee intends to open an investigation into the United Nations “Oil-for-Food” Program to examine allegations of improper conduct, and whether such improper conduct negatively affected the interests of the United States. In particular, the Subcommittee will examine the extent to which any misconduct took place within the United States and the extent to which any misconduct involved United States citizens, residents, or businesses

Imported Pharmaceuticals

Over the last few years several factors, including the advent of Internet pharmacies and the globalization of the pharmaceutical market have led to a dramatic surge in drug imports, especially personal imports, that has overwhelmed the FDA. It is estimated that 20 million packages containing pharmaceutical products are imported into the U.S. every year. This is an increase of over 1,000 percent in only 2 years.

According to the FDA, drugs procured outside the United States regulatory system can be dangerous for numerous reasons. FDA acknowledges that it cannot monitor nor guarantee the safety and effectiveness of drugs purchased outside the closed U.S. distribution system. FDA has warned the public that drugs purchased from foreign countries could be counterfeit, sub-potent or super-potent foreign imitations of FDA approved drugs, expired drugs, contaminated drugs or drugs stored under unsafe conditions.

The Subcommittee will investigate the extent to which consumers can purchase pharmaceuticals over the Internet without a medical prescription or medical diagnosis, what role FDA, the Bureau of Customs and Border Protection, and DEA play in preventing the illegal importation of scheduled pharmaceuticals or pharmaceuticals that violate of the Food, Drug, and Cosmetics Act and whether the pharmaceuticals that are pouring into the United States from foreign sources are counterfeit, expired, unsafe or legitimate.

Container Security Initiative

In light of the September 11, 2001, terrorist attacks, concern has increased that terrorists could smuggle weapons of mass destruction (WMD), or their components and other potentially lethal devices, in the approximately 7 million ocean going containers that arrive in the United States every year. As part of its overall response to the threat of terrorism, the Department of Homeland

Security's Bureau of Customs and Border Protection (Customs) implemented the Container Security Initiative (CSI) to screen high-risk containers at sea ports overseas, thus employing BCBP tools before potentially dangerous cargoes reach our shores. Customs also implemented the Customs Trade Partnership Against Terrorism (C-TPAT) to improve the security of the global supply chain in the private sector.

In August 2003, staff from the Permanent Subcommittee on Investigations conducted a fact-finding trip to two CSI ports. This oversight trip proved that CSI could be useful as part of an overall risk management approach to combat terrorism and WMD. However, both CSI and C-TPAT currently lack the scope and scale to reach their full potential, and face a number of compelling challenges that further impact their ability to deliver on their promise.

The investigation will assess how Customs is using CSI and C-TPAT in connection with its other enforcement programs. These important Customs initiatives—such as CSI, which relies extensively on targeting—need sustained attention and congressional oversight. At the Subcommittee's request, GAO is conducting a review of the requirements for and challenges involved in transitioning CSI and C-TPAT from promising risk management *concepts* to effective and sustained *enforcement* operations.

Nuclear Terrorism

The Subcommittee has an on-going investigation to evaluate progress made by the Customs in addressing the threat of nuclear and radiological terrorism by installing radiation detection equipment at U.S. ports of entry. Installing such equipment at our borders is a critical component in reducing the Nation's vulnerability to terrorism. In addition, a number of other federal agencies are engaged in projects to install radiation detection equipment at key transportation points within and outside the United States. This investigation will assess the federal government's response to the potential of nuclear terrorism.

Money Laundering

From 1999 to 2001, the Subcommittee conducted an investigation into money laundering vulnerabilities in the U.S. financial services sector including private banking, correspondent banking, and the securities industry. Two Minority staff reports were issued, and Subcommittee hearings were held in November 1999 and March 2001. Several GAO reports on money laundering issues related to private banking, the securities industry, credit card industry, and U.S. corporations formed for Russian entities were also issued at the Subcommittee's request. The Subcommittee's investigative work provided the basis for many of the anti-money laundering provisions in Title III of the USA Patriot Act of 2001. The Subcommittee's Minority staff is currently investigating money laundering allegations which will help evaluate compliance with the Patriot Act anti-money laundering reforms and allegations of foreign corrupt funds being deposited into U.S. bank accounts.

Synthetic Fuel Tax Credit

The Subcommittee is continuing its investigation tax credits claimed under Section 29 of the Internal Revenue Code for the sale of coal-based synthetic fuels. This investigation is examining the utilization of these tax credits, the nature of the technologies and fuels created, the use of these fuels, and others aspects of Section 29. The investigation will also address the IRS' administration of Section 29 tax credits.

Electronic Voting

The Subcommittee intends to open an investigation into the efficiency and effectiveness of electronic voting equipment and will examine allegations related to hardware or software failures; the sale or use of substandard equipment; certification, audit or design problems; and related matters.

Federal Contractors' Tax Delinquencies

On February 12, 2004, a hearing held before the Subcommittee on *DOD Contractors Who Cheat on Their Taxes* examined the IRS' failure to collect unpaid taxes owed by contractors doing business with the Department of Defense's (DOD) and getting paid with taxpayer dollars. This hearing also demonstrated that the problem of tax delinquent federal contractors is not confined to DOD. Because of the potential revenue that could be collected by the Federal Payment Levy Program from non-DOD contractors, the Subcommittee has decided to expand the coverage of our investigation to include contractors at other federal agencies who receive federal contract payments and are delinquent in paying their taxes.

Credit Counseling

On March 24, 2004, the Subcommittee held a hearing entitled *Profiteering In A Non-Profit Industry: Abusive Practices In Credit Counseling*. The industry has undergone both rapid growth and significant transformation during the past five years, including growing participation by firms claiming nonprofit status. A minority of companies has attracted a growing number of complaints about poor service, high fees, and misleading advertising. At the same time, changes in the credit markets, electronic payments systems, and emerging competitors have placed growing pressure on traditional nonprofits performing credit counseling. In addition to studying the most egregious cases of corporate misconduct and whether some companies are abusing their nonprofit status, the Subcommittee is studying whether problems in the broader industry require a federal response. The Subcommittee continues to monitor this investigation.

Border Security

The Subcommittee continues its examination of the difficulty of maximizing border security while minimizing the impact on commerce and tourism. A 2001 hearing examined U.S. policy on releasing illegal aliens into the United States before holding deportation hearings. On May 12, 2003,

the Subcommittee held a hearing in Minnesota, *Border Security: How Are State and Local Officials Coping With the New Levels of Threat?*, in order to hear from state and local officials about how they are dealing with potential threats across our land, lake, and air routes. This investigation is ongoing.

Unused Airline Tickets

The Subcommittee has initiated an investigation and has requested that the General Accounting Office review DOD's purchase and use of airline tickets to determine if there are adequate controls to prevent fraud, waste and abuse, such as claiming reimbursement for unused airline tickets and not reimbursing individual travelers for airline tickets that were already paid by DOD. In fiscal years 2001 and 2002, DOD spent \$2.8 billion on travel-related expenses. Potential savings from recovering the cost of unused or partially used tickets is in the tens of millions of dollars.

DOD's Premium Class Travel

In November 2003, the Subcommittee conducted a hearing on the Department of Defense's use of first and business class airline travel. At the hearing, it was determined that DOD had not properly authorized or justified 73 percent of the first and business class travel undertaken in fiscal years 2001 and 2002. DOD spent \$124 million on over 68,000 tickets during these two years. The improper authorization and justification of these tickets resulted in the improper expenditure of over \$30 million per year on premium airline tickets. The Subcommittee continues to monitor this investigation.

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Music Piracy

On September 30, 2003, the Subcommittee held a hearing, *Privacy & Piracy: The Paradox of Illegal File sharing on Peer-to-Peer Networks and the Impact of Technology on the Entertainment Industry*, to assess the music industry's use of the subpoena process delineated in the Digital Millennium Copyright Act and its initial salvo of copyright infringement lawsuits; what steps the music industry is taking besides litigation to preserve its intellectual property in this digital age; whether those steps unduly infringe upon consumers' privacy rights; how peer-to-peer networks plan to move from a business model predicated upon stealing copyrighted works to a business model based upon trading licensed music, movies and software; how the illegal trading of copyrighted works has hurt the music industry; and how to inform and educate a generation of children and

young adults that trading copyrighted music on peer-to-peer networks is illegal. The Subcommittee continues to monitor this investigation.

SARS

The Subcommittee has held three hearings on Severe Acute Respiratory Syndrome (SARS). The Subcommittee's investigation so far has covered the adequacy of the response to the initial outbreak by state and federal agencies, best practices for dealing with future SARS cases, and the preparations for renewed outbreaks in Minnesota. Going forward, the Subcommittee has requested that GAO conduct a study of national surveillance systems for emerging infectious diseases. The study should be completed in the Spring of 2004.

Patient Safety

The Subcommittee held a hearing in June 2003 on the need to improve patient safety during hospital stays. There have been numerous stories about the incidence of disease and mistakes endangering the welfare of patients. Technological advances and better management procedures promise to reduce the possibility of mistakes and reduce the transmission of disease during hospital stays. The June 2003 hearing focused on some of the past problems as well as the solutions that are either being implemented or in development. This investigation is ongoing.

Enron

In 2002, the Subcommittee conducted an extensive, bipartisan investigation into the collapse of Enron Corporation. The Subcommittee reviewed over 2 million pages of documents, conducted over 100 interviews, held four hearings, and issued two bipartisan reports, one on the role played by the Enron Board of Directors and the other on the role played by U.S. financial institutions. The reports concluded that the Enron Board of Directors and some U.S. financial institutions contributed to Enron's accounting deceptions, corporate abuses, and ultimate collapse. The Subcommittee's investigative work contributed to passage of the Sarbanes-Oxley law which enacted accounting and corporate reforms in July 2002. The Subcommittee is continuing to monitor this matter, including implementation of reforms undertaken by corporations, accounting firms, financial institutions, and regulatory bodies to prevent future Enrons.

Tax Havens and Abusive Tax Schemes

The Subcommittee has held a number of hearings addressing tax haven and tax shelter abuses which are undermining the integrity of the federal tax system, diverting tens of billions of dollars each year from the U.S. Treasury, and shifting the tax burden from high income corporations and individuals onto the middle class. Hearings held in 2001 examined the historic and ongoing lack of cooperation by some offshore tax havens with international tax enforcement efforts and their resistance to divulging information needed to detect, stop and prosecute U.S. tax evasion. A hearing held in December 2002 and Report issued in January 2003 provided an in-depth examination of an

abusive tax shelter used by Enron, while two days of hearings in November 2003, provided an inside look at how some respected accounting firms, banks, investment advisors, and lawyers have become engines pushing the design, sale, and implementation of abusive tax shelters to corporations and individuals across the country. This investigation is ongoing.

Gasoline and Crude Oil Pricing

In 2001, the Subcommittee began an investigation into recent gasoline and crude oil price spikes. In April 2002, the Subcommittee issued a staff report and held hearings detailing how U.S. retail gasoline prices are set and identifying factors responsible for price spikes, including oil industry mergers, refinery closings, tight gasoline supplies, and regional pipeline limitations, all of which gave some refiners sufficient market power to reduce gasoline supplies and increase gasoline prices. In March 2003, the Subcommittee Minority staff issued a report examining the crude oil markets, which affect the price of not only gasoline, but also key commodities like home heating oil, jet fuel, and diesel fuel. The report found that the Department of Energy's 2002 program to fill the Strategic Petroleum Reserve increased crude oil prices and hurt U.S. consumers and taxpayers, without actually increasing overall U.S. oil supplies. It also found that crude oil prices are affected by trading not only on regulated futures exchanges, but also on unregulated over-the-counter markets, and recommends several reforms, including increasing disclosure and market oversight of over-the-counter energy trading to detect and deter price manipulation. This investigation is ongoing.

